

### **REMARKS**

Applicants respectfully request reconsideration of this application in view of the foregoing amendment and following remarks.

#### **Status of the Claims**

An Office Action has been issued on January 23, 2008 indicating that "[t]he amendment filed on October 24, 2007 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP §821.03)."

Applicants assume that Applicants' October 24, 2007 amendment has NOT been entered.

Claims 1-13 are currently pending in this application, of which claims 12 and 13 are withdrawn from consideration. Claims 1-11 stand rejected. By this amendment, claims 1-13 are cancelled without prejudice or disclaimer. New claims 14-18 are added. No new matter has been added by these amendments.

#### **Rejection under 35 U.S.C. §103**

Claims 1-11 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Publication No. 2001/0043275 to Hirota et al. ("Hirota") in view of U.S. Patent No. 7,046,290 to Nozaki ("Nozaki").

As indicated above, rejected claims 1-11 have been cancelled thereby rendering the rejections directed to these claims moot.

#### **New Claims**

Claims 14-18 have been added to recite the claimed invention in an alternative manner. Applicants believe that new claims 14-18 are readable on the elected invention, i.e., an imaging apparatus with two readout modes selected based on the operation of a zoom device, classified in class 348, subclass 240.99 as indicated in the Office Action of December 13, 2006.

Claim 14 recites, *inter alia*, "a controller having a first control mode adapted to output picture data by using a signal from a first area in the imaging area in a case that a first scaling factor is set by said optical zoom device, and a second control mode adapted to output the picture data by using a signal from a second area smaller than the first area in a case that a second scaling factor, which is larger than the first scaling factor, is set by said optical zoom device, executing control so that, in the case of the first control mode, the picture data is output by mixing the signals of the plurality of light receiving elements, and in the case of the second control mode, the picture data is output by unmixing the signals of the plurality of light receiving elements or by mixing the plurality of light receiving elements less than the number of mixed pixels in the case of first control mode, wherein said controller controls to operate in the first control mode when zooming with said optical zoom device" Claim 18 recites similar features to claim 14 but in a method claim.

One of the aspects of the present invention is to provide an imaging apparatus and a controlling method thereof capable of obtaining a sufficient resolution when picture data are expanded by an electronic zoom. In particular, the imaging apparatus changes a number of pixels to be mixed in accordance with a scaling factor of the zooming.

Hirota, in an effort to achieve a high-speed image pickup in a state that a center of an image pickup area coincides with an optical center without raising a driving frequency, omits a discarding operation of unnecessary electrical charge by arranging obstruction part that obstructs a transfer of an electrical charge from a vertical shift register to a horizontal shift register. Nozaki, in an effort to perform a focus detection in a plurality of areas of image pickup frame with keeping a small size and low cost, excludes an outside of readout area from a focus detection area.

As Applicants understand it, however, none of the cited references (i.e., Hirota and Nozaki) discloses the feature of the present invention as described above. Specifically, the cited references, either alone or in combination, fails to teach the "controller" or step of "controlling" of the present invention as specifically recited in claims 14 and 18, respectively.

Accordingly, each of claims 14 and 18, and claims 15, 16 and 17 in depending from claim 14, is believed neither anticipated by nor rendered obvious in view of the cited references (i.e., Hirota and Nozaki), either taken alone or in combination, for at least the reasons discussed above.

Applicants have chosen in the interest of expediting prosecution of this patent application to distinguish the cited document from the pending claims as set forth above. However, these statements should not be regarded in any way as admissions that the cited document is, in fact, prior art.

Applicants believe that the application as amended is in condition for allowance and such action is respectfully requested.

**AUTHORIZATION**

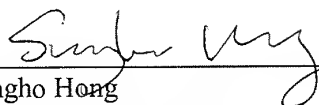
No petitions or additional fees are believed due for this amendment and/or any accompanying submissions. However, to the extent that any additional fees and/or petition is required, including a petition for extension of time, Applicants hereby petition the Commissioner to grant such petition, and hereby authorizes the Commissioner to charge any additional fees, including any fees which may be required for such petition, or credit any overpayment to Deposit Account No. 13-4500 (Order No. 1232-5096). A DUPLICATE COPY OF THIS SHEET IS ENCLOSED.

An early and favorable examination on the merits is respectfully requested.

Respectfully submitted,  
MORGAN & FINNEGAN, L.L.P.

Dated: February 12, 2008

By:

  
Sungho Hong  
Registration No. 54,571

**Correspondence Address:**

MORGAN & FINNEGAN, L.L.P.  
3 World Financial Center  
New York, NY 10281-2101  
(212) 415-8700 (Telephone)  
(212) 415-8701 (Facsimile)

**AUTHORIZATION**

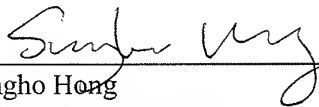
No petitions or additional fees are believed due for this amendment and/or any accompanying submissions. However, to the extent that any additional fees and/or petition is required, including a petition for extension of time, Applicants hereby petition the Commissioner to grant such petition, and hereby authorizes the Commissioner to charge any additional fees, including any fees which may be required for such petition, or credit any overpayment to Deposit Account No. 13-4500 (Order No. 1232-5096). A DUPLICATE COPY OF THIS SHEET IS ENCLOSED.

An early and favorable examination on the merits is respectfully requested.

Respectfully submitted,  
MORGAN & FINNEGAN, L.L.P.

Dated: February 12, 2008

By:

  
Sungho Hong  
Registration No. 54,571

Correspondence Address:

MORGAN & FINNEGAN, L.L.P.  
3 World Financial Center  
New York, NY 10281-2101  
(212) 415-8700 (Telephone)  
(212) 415-8701 (Facsimile)